

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 589

Case No. 589  
UP File 920338

Parties     Brotherhood of Maintenance of Employes  
to           and  
Dispute     Union Pacific Railroad Company  
              (Former Missouri Pacific Railroad)

Statement

of Claim: 1. Carrier violated the Agreement, especially Rule 12, when E. C. Mitchell (SSN 437-78-0886) was dismissed from service on April 23, 1992.

2. Claim in behalf of Mr. Mitchell for wage loss suffered beginning April 23, 1992, until reinstated with seniority, vacation and all other rights unimpaired.

Findings:     The Board has jurisdiction of this case by reason of the parties Agreement establishing this Board therefor.

The Claimant, Bridgeman Ellis Mitchell, was charged with conduct unbecoming an employee when on April 15, 1982 it was alleged that he had entered into an altercation with a Richard Collins, Jr., that he was argumentative and quarrelsome and that he used abusive and profane language toward Foreman Louis Griffin.

The investigation was held on April 30, 1992 and as a result thereof, the Carrier concluded him to be culpable. The Claimant was dismissed from service as discipline therefor.

The Claimant was accorded the due process to which entitled under his discipline rule.

There was sufficient evidence adduced to support the conclusion of Carrier as to the Claimant's culpability. As pointed out in Third Division Award No. 21299:

"It is inherent in the work relationship that personnel must conform to certain well-known, commonly accepted standards of reasonable conduct while on the job. Published rules and regulations are not necessary to inform an employee that misconduct such as fighting or using vulgar language combined with threats may subject him to discipline or discharge. A railroad office is a place for the performance or work. While it is not a tearoom with a Chesterfield vocabulary, neither is it a place for bar room conduct."

Childish, uncontrolled, or irresponsible outbursts accompanied by physical or verbal assault cannot be tolerated. Such behavior is not excusable because the offender is in an agitated emotional state. When an employee lacks the emotional stability and rational judgment to restrain himself from outbursts, he also lacks the minimum qualification to be retained as a member of the workforce."

We agree most wholeheartedly with the logic of the above award.

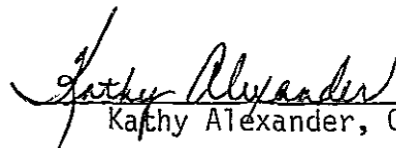
Here, the Claimant may have had cause for being disturbed because the frayed piling "allegedly" kicked up, striking and causing the tie on the bridge above to dislodge and fall in the Claimant's general vicinity. If there was cause for agitation, there was no cause for a continuation of the agitation or the altercation with the Foreman as well as with Richard Collins, who was on the bridge above.

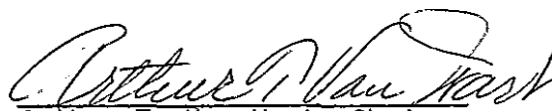
Carrier's conclusion of guilt in this case was fairly concluded.

The Claimant's record of irrationality, his behavioral problems and our technical reinstatement of the Claimant in November 26, 1990 by our Award No. 424, serves but to reaffirm the difficulty that Claimant has in getting along with people. The April 15, 1992 incident serves to demonstrate his adherent behavioral problems. The Claimant's record shows that he has a propensity to be quarrelsome. His conduct in this case was in violation of Rule 607 (6). This claim will be denied.

Award: Claim denied.

  
S. A. Hammons, Jr. Employee Member

  
Kathy Alexander, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued November 27, 1993.